



April 4, 2001

ENGROSSED HOUSE BILL No. 2148

DIGEST OF HB 2148 (Updated April 3, 2001 1:24 PM - DI 71)

Citations Affected: IC 10-2.

Synopsis: Adjutant general and national guard. Authorizes the armory board to contribute funds in support of certain authorized duties and responsibilities of the adjutant general. Enables a person who has served ten years as a commissioned officer of the United States Air Force to be appointed adjutant general. Provides that, for purposes of payment of the medical expenses of a member of the Indiana national guard who is injured in the line of duty, a disability shall not be considered temporary if it continues for more than one year. Provides that a conviction by courts-martial may be appealed to a military court of appellate review, and that the military court of appellate review shall consist of three Indiana national guard judge advocates appointed to the military court of appellate review by the adjutant general of Indiana. Changes certain provisions of the military code to make them apply to airmen as well as to soldiers.

Effective: July 1, 2001.

Kuzman, Turner
(SENATE SPONSORS — PAUL, ALTING)

January 17, 2001, read first time and referred to Committee on Rules and Legislative Procedures.

February 19, 2001, amended, reported — Do Pass.

February 22, 2001, read second time, ordered engrossed. Engrossed.

February 26, 2001, read third time, passed. Yeas 94, nays 0.

SENATE ACTION

March 1, 2001, read first time and referred to Committee on Public Policy.

April 3, 2001, amended, reported favorably — Do Pass.

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EH 2148—LS 6575/DI 13+



April 4, 2001

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

ENGROSSED HOUSE BILL No. 2148

A BILL FOR AN ACT to amend the Indiana Code concerning state police, civil defense, and military affairs.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 10-2-2-9.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2001]: **Sec. 9.5. The armory board appointed under section 9 of**
4 **this chapter may contribute funds in support of the following**
5 **authorized duties and responsibilities of the adjutant general:**

- 6 (1) **The military department of the Indiana ceremonial unit.**
- 7 (2) **The Indiana Guard Reserve.**
- 8 (3) **The annual report of the adjutant general's department.**
- 9 (4) **The medical treatment, pensions, and funeral expenses of**
10 **officers and soldiers wounded, disabled, or killed while in the**
11 **active service of the state.**
- 12 (5) **Public relations expenditures of the adjutant general's**
13 **department that are not paid by the United States Department**
14 **of Defense.**
- 15 (6) **Recruitment and retention expenditures of the adjutant**
16 **general's department that are not paid by the United States**
17 **Department of Defense.**

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(7) The publication of the armed forces law of Indiana in accordance with section 7(d) of this chapter.

SECTION 2. IC 10-2-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. **(a)** All officers shall be commissioned by the governor, who shall be and is, ex officio, the commander in chief. ~~and no person shall be commissioned in the national guard of this state, unless that person is a citizen of the state.~~

(b) No commission shall be issued to any officer of the national guard except to general officers until such officer ~~shall have~~ **has** passed a satisfactory examination before a board as to the officer's knowledge of military affairs proportionate to the office to be held and the officer's general knowledge and fitness for the service.

(c) No person shall be eligible for appointment to the office of **adjutant general, as a major-general, to command the national guard** or as a brigadier-general, unless that person has served ten (10) years as a commissioned officer of the national guard, ~~or army, or air force~~ of the United States.

(d) No person shall be eligible for appointment to any staff (other than the governor's honorary staff), corps, or department unless that person has the technical training requisite to qualify for such appointment, to be determined by an examining board appointed for the purpose.

SECTION 3. IC 10-2-4-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 18. **(a)** A member of the national guard who:

(1) ~~shall~~, when on duty or assembled therefor, in case of riot, tumult, breach of peace, insurrection, invasion, public disaster or whenever ordered by the governor, the commanding general of the national guard, or called to the aid of civil authorities, ~~receive~~ **receives** any injury, or incur or contract any disability or disease, by reason of such duty or assembly therefor; or

(2) ~~shall~~, without fault or neglect on that member's part, ~~be is~~ wounded or disabled while performing any lawfully ordered duty, which ~~shall temporarily incapacitate~~ **incapacitates** the member from pursuing his or her usual business or occupation; shall, during the period of such incapacity, receive the pay to which the member was entitled while on or assembled for such duty, and actual necessary expenses for care and medical attention.

(b) Where a claim is made under this section, the adjutant-general of the state may cause examinations of the claimant to be made from time to time by a medical officer or officers designated for that purpose by the adjutant-general of the state, and the adjutant-general may direct



the removal of a claimant to, and treatment in, a hospital designated by the adjutant-general of the state, and if the claimant refuses to permit any such examination, or refuses to go to such hospital or to follow the advice given or treatment prescribed therein, the claimant shall thereby forfeit and be barred from all right to any claim or allowance under this section.

(c) Under this chapter, no disability shall be considered temporary which continues for more than ~~ninety (90) days~~ **one (1) year** from the date of receiving the injury or of incurring or contracting the disease or disability, and pay and expenses for care and medical attendance for more than the said ~~ninety (90) days~~ **one (1) year** shall not be allowed.

(d) The adjutant-general of the state may appoint a medical examiner or a board of three (3) officers, at least one (1) being a medical officer, to inquire into merits of any claim arising under this section, or the adjutant-general may determine any claim without appointing a medical examiner or board and fix the amount to be allowed under this section. A medical examiner or board appointed under this section shall have the same power to take evidence, administer oaths, issue subpoenas and compel witnesses to attend and testify and produce books and papers and punish their failures to do so, as is possessed by a general court-martial. The findings of the medical examiner or board shall be subject to the approval of the adjutant-general of the state, who may return the proceedings of the medical examiner or board for revision and for taking further testimony. The amount found due such member by said medical examiner or board, to the extent that the findings are approved by the adjutant-general of the state, shall be paid by this state, in like manner as other military accounts are paid.

SECTION 4. IC 10-2-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. The military courts of this state shall be as follows:

1. General Courts-Martial.
2. Special Courts-Martial.
3. Summary Courts-Martial.

Such courts shall be constituted like, and have cognizance of the same subject, and possess like powers, except as to punishments, as similar courts provided for by the laws and regulations governing the armed forces of the United States, and the proceedings of such courts-martial shall follow the forms and modes of procedure prescribed for said similar courts, and as approved by the adjutant-general.

(a) General courts-martial. General courts-martial may be convened



by orders of the governor and shall have the power to try any person subject to military law; to impose fines not exceeding two hundred dollars (\$200); to sentence to forfeit of pay and allowances; to a reprimand; to dismissal or dishonorable discharge from the services; to reduction of noncommissioned officers to the ranks, or any two (2) or more of such punishments may be combined in the sentence imposed by such courts.

(b) Special courts-martial. The adjutant-general, or the commanding officer of each camp or other place, division, regiment, separate battalion, air squadron, group, or other detached command, may appoint special courts-martial for that command, but a special courts-martial may in any case be appointed by superior authority when by the latter deemed desirable. Such special courts-martial shall have power to try any person subject to military law, except a commissioned officer, for any crime or offense made punishable by the military laws of the United States or state, and shall have the same powers of punishment as do general courts-martial, except that fines imposed by such courts shall not exceed one hundred dollars (\$100).

(c) Summary courts-martial. The adjutant-general, or the commanding officer of each camp or other place, division, regiment, battalion, company, air squadron, group or other detachment of the national guard, may appoint for such place or command a summary court to consist of one (1) officer, who shall have power to administer oaths and to try the enlisted persons of such place or command for breaches of discipline and violations of laws when governing such organizations. The court when satisfied of the guilt of said soldier: may impose fines not exceeding twenty-five dollars (\$25.00) for any single offense; may sentence noncommissioned officers to reduction to the ranks; and may sentence to forfeiture of pay and allowances. The proceedings of such court shall be informal and the minutes thereof shall be the same as prescribed for summary courts of the armed forces of the United States.

(d) All courts-martial of the national guard, including summary courts, shall have the power to sentence to confinement, in lieu of fine authorized to be imposed, provided that such sentence of confinement shall not exceed one (1) day for each one dollar (\$1.00) of fine authorized.

(e) No sentence of dismissal from the service or dishonorable discharge imposed by the national guard courts-martial shall be executed until approved by the governor.

(f) A conviction by courts-martial that has been approved by the convening authority under this article may be appealed to a

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1 **military court of appellate review. The military court of appellate**
 2 **review must consist of three (3) Indiana national guard judge**
 3 **advocates appointed to the military court of appellate review by**
 4 **the adjutant general of Indiana.**

5 (f) (g) Presidents of courts-martial and summary courts officers
 6 shall have power to issue warrants to arrest accused persons and to
 7 bring them before the court for trial whenever such persons shall have
 8 disobeyed an order in writing from the convening authority to appear
 9 before such court, a copy of the charge or charges having been
 10 delivered to accused with such order, and to issue subpoenas duces
 11 tecum and to enforce by attachment, attendance of witnesses, and the
 12 production of books and papers, and to sentence for a refusal to be
 13 sworn or to answer as provided in action before civil courts. All
 14 processes of said courts, when it is impracticable to be executed by the
 15 military forces of the state, shall be in the name of the state and shall
 16 be executed by such civil officers as may be designated by the
 17 president of the court-martial or summary court officer issuing such
 18 process. It shall be the duty of the civil officer so designated to execute
 19 all processes and make due return thereof to the officer issuing same.
 20 Such civil officer shall be entitled to and paid such fees and allowances
 21 as are now provided or may hereafter be provided for like processes in
 22 civil actions of the state. Such fees shall be charged in case of
 23 conviction of the accused as a part of the penalty of the offense of
 24 which the accused may be convicted whether the punishment for the
 25 offense be imprisonment or fine, or both. The payment of such costs in
 26 addition to the payment of the fine imposed, shall be enforced by
 27 imprisonment until the same be satisfied, at a rate of one dollar (\$1.00)
 28 per day of such costs or fine, or both.

29 SECTION 5. IC 10-2-6-1 IS AMENDED TO READ AS FOLLOWS
 30 [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) The officer in permanent or
 31 temporary command of a station is responsible for the security of all
 32 public property of the command, whether in use or in store, and
 33 although for purposes of periodical accountability to proper authorities,
 34 it may all have been officially accepted and receipted for by any
 35 subordinate officers, the commanding officer is nevertheless
 36 responsible and pecuniarily liable with them for the strict observance
 37 of the regulations in regard to its preservation, use, and issue. **He The**
 38 **officer** will take care that all storehouses are properly guarded, that
 39 only reliable agents are employed, and only trustworthy enlisted men
 40 are detailed for duty in them or in connection with the property.

41 (b) Whenever any officer, **soldier, or airman** responsible for state
 42 and federal property: ~~shall~~



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1 (1) ~~resign~~, resigns;

2 (2) ~~he is~~ promoted;

3 (3) is dismissed; or

4 (4) is discharged;

5 ~~he the officer, soldier, or airman~~ shall deliver all arms,
6 accoutrements, or stores only to some officer appointed to receive the
7 same, and take duplicate receipts therefor, one of which ~~he the officer,~~
8 **soldier, or airman** shall file with the adjutant-general. In case of the
9 death of any such officer, **soldier, or airman responsible for state**
10 **and federal property**, the next in command shall immediately take
11 charge of such arms, accoutrements, or stores, and deliver the same to
12 some person appointed to receive the same or, if commissioned in
13 place of such deceased, shall execute and file duplicate receipts for
14 such arms, accoutrements, and stores with the adjutant-general.

15 (c) Officers responsible for state and federal property shall be
16 charged for any damage to or loss or destruction of the same, unless
17 they show to the satisfaction of the adjutant-general, by proper
18 evidence, that the damage, loss or destruction was occasioned by
19 unavoidable causes, and without fault or neglect on their part.

20 (d) If an article of state or federal property ~~he is~~ lost or damaged by
21 the neglect or fault of any officer, ~~or soldier,~~ **or airman,** ~~he the officer,~~
22 **soldier, or airman** shall be subject to pay for the value thereof or the
23 cost of repairs, in a sum to be determined by the proper authority, upon
24 the demand of the adjutant-general.

25 (e) The amount charged against an enlisted ~~man soldier or airman~~
26 on the muster and payrolls on account of loss or damage to or repairs
27 to military property shall not exceed the value of the article or cost of
28 repairs, and such charge will only be made on conclusive proof, and
29 never without an inquiry if the soldier **or airman** demands it.

30 (f) The adjutant-general is authorized to pay from the funds
31 appropriated to the military department for operating expenses the
32 expenses necessary for the apprehension and prosecution of any person
33 absconding with property belonging either to the state or United States,
34 provided such person is without the confines of this state.

35 SECTION 6. IC 10-2-6-2 IS AMENDED TO READ AS FOLLOWS
36 [EFFECTIVE JULY 1, 2001]: Sec. 2. Whenever it shall appear that an
37 officer, **soldier, or airman** or a former officer, **soldier, or airman**
38 responsible for any national guard, state or federal equipment, property,
39 or military stores, has failed to return said issues or any part thereof on
40 demand of proper authority, or any arms or other issues have been
41 damaged beyond the injury resulting from the necessary use of such
42 articles issued, or that a deficiency at any time exists in the number of

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1 **or** quantity of such state and federal arms, property, or military stores,
2 the amount of such unnecessary damages or losses shall be determined
3 by a board of survey, appointed in accordance with appropriate national
4 guard regulations, and such amounts shall be collected by law in the
5 name of the state of Indiana and paid into the military fund thereof. ~~and~~
6 It is hereby made the duty of the attorney-general of the state to bring
7 such suit in the name of the state of Indiana, and cause the amounts so
8 collected to be paid into the military fund of the state of Indiana.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures, to which was referred House Bill 2148, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning state police, civil defense, and military affairs.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 2148 as introduced.)

MOSES, Chair

Committee Vote: yeas 9, nays 0.

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SENATE MOTION

Mr. President: I move that Senator Alting be added as cosponsor of Engrossed House Bill 2148.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Public Policy, to which was referred House Bill No. 2148, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 7.

Page 7, line 12, after "thereof." insert "**and**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 2148 as printed February 20, 2001.)

WYSS, Chairperson

Committee Vote: Yeas 7, Nays 0.

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